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NATIONAL ENERGY BOARD REASONS FOR DECISION

In the Matter of the Application under
Part IV of the National Energy Board Act
and Part II of the Northern Pipeline Act
(Toll Application)
of



FOOTHILLS PIPE LINES (YUKON) LTD.

September 1984

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(i)

RECITAL AND APPEARANCES

NATIONAL ENERGY BOARD

IN THE MATTER OF the National Energy Board Act and the Northern Pipeline Act and the Regulations made thereunder, and

IN THE MATTER OF a public hearing respecting the tariffs and tolls to be charged by Foothills Pipe Lines (Yukon) Ltd. (hereinafter referred to as Foothills), and other related matters pursuant to Part IV of the National Energy Board Act and Part II of the Northern Pipeline Act, filed with the Board under File No. 1562-F6-4.

HEARD at Ottawa, Ontario on:

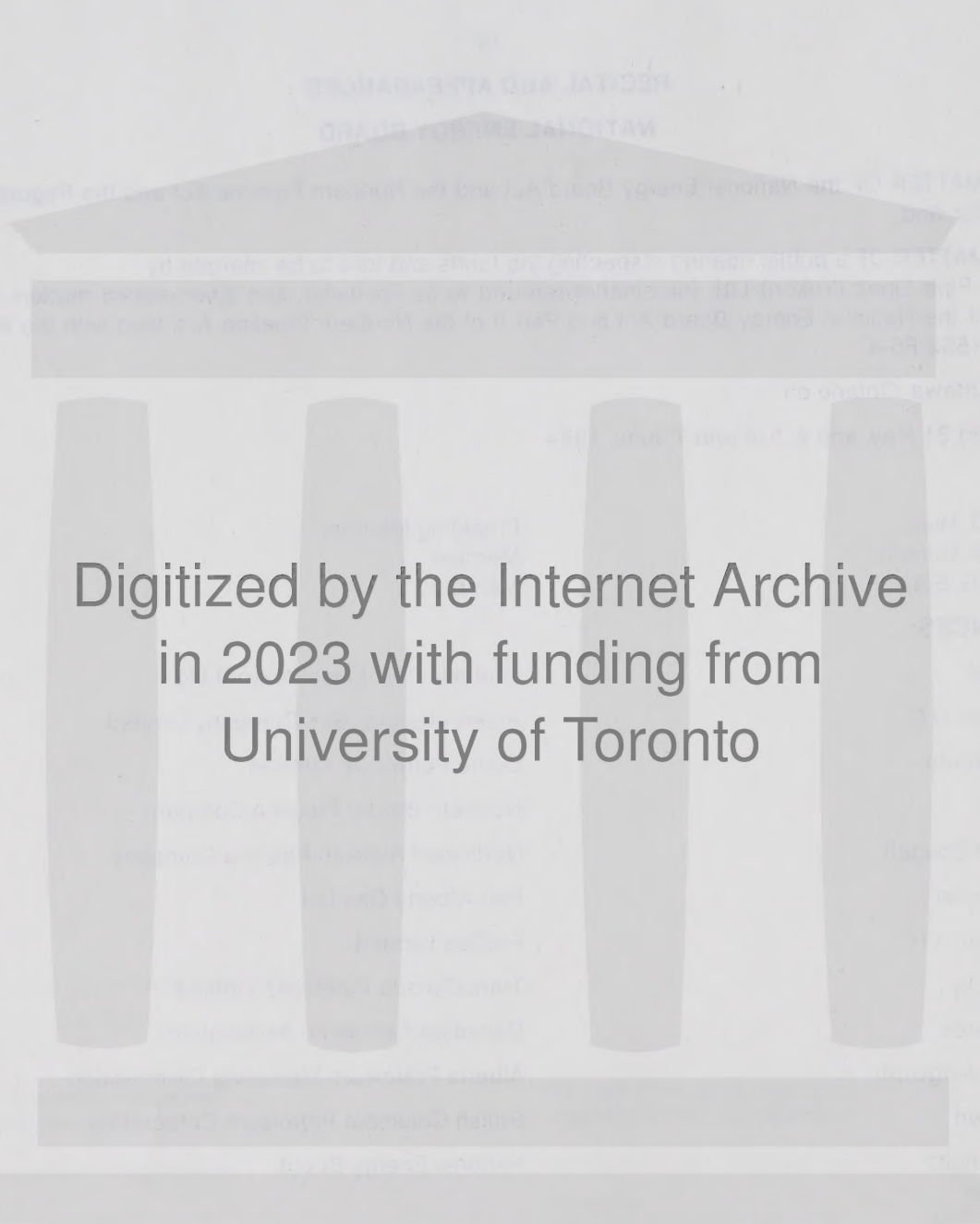
29, 30 and 31 May, and 4, 5, 6 and 7 June, 1984.

BEFORE:

Mr. A.D. Hunt	Presiding Member
Mr. A.B. Gilmour	Member
Mr. W.G. Stewart	Member

APPEARANCES:

J. Lutes	Foothills Pipe Lines (Yukon) Ltd.
J. Smith, Q.C.	Alberta Natural Gas Company Limited
W.M. Smith	Dome Petroleum Limited
A. Hill	Northern Border Pipeline Company
E.B. McDougall	Northwest Alaskan Pipeline Company
K.F. Keeler	Pan-Alberta Gas Ltd.
D.G. Hart, Q.C.	ProGas Limited
C. Black	TransCanada PipeLines Limited
C.K. Yates	Canadian Petroleum Association
A.S. Hollingworth	Alberta Petroleum Marketing Commission
H. Brown	British Columbia Petroleum Corporation
N.J. Schultz	National Energy Board
A. Davis	



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ABBREVIATIONS

AFUDC	— Allowance for Funds Used During Construction
ANG	— Alberta Natural Gas Company Ltd
APMC	— Alberta Petroleum Marketing Commission
Applicant/Company/ Foothills	— Foothills Pipe Lines (Yukon) Ltd.
Board/NEB	— National Energy Board
CPA	— Canadian Petroleum Association
Consolidated	— Consolidated Pipe Lines Company
DCF	— Discounted Cash Flow
FDCE	— Final Design Cost Estimates
Foothills (Alta.)	— Foothills Pipe Lines (Alta.) Ltd.
Foothills (Sask.)	— Foothills Pipe Lines (Sask.) Ltd.
Foothills (South B.C.)	— Foothills Pipe Lines (South B.C.) Ltd.
IROR	— Incentive Rate of Return
IRR	— Investor's Required Rate of Return
Mainline	— The Canadian portion of the Alaska Highway Natural Gas Pipeline which will transport Alaskan gas.
NEB Act	— National Energy Board Act
NPA	— Northern Pipeline Agency
NOVA	— NOVA, AN ALBERTA CORPORATION
Pan-Alberta	— Pan-Alberta Gas Ltd.
Phase I/Prebuild	— The portions of the Alaska Highway Natural Gas Pipeline Project which have been prebuilt to transmit natural gas of Canadian origin before the pipeline is placed in service for the transmission of natural gas of Alaskan origin, being all or part of facilities in Zones 6 to 9.
Phase II	— The remaining portions of the Alaska Highway Natural Gas Pipeline Project which, when combined with the prebuilt facilities, will constitute the complete mainline for the transmission of natural gas of Alaskan origin, being the facilities in Zones 1 to 5, and incremental facilities in Zones 6 to 9.
ProGas	— ProGas Limited
PFUDC	— Provision for Funds Used During Construction
TransCanada, TCPL	— TransCanada PipeLines Limited
Westcoast, WTCL	— Westcoast Transmission Company Limited

(v)

November 1979

Foothills

Reasons for Decision

— "National Energy Board Reasons for Decision in the Matter of Phase III of a Public Hearing under the National Energy Board Act and the Northern Pipeline Act (Tolls, Tariffs, Financing and Related Matters) of Foothills Pipe Lines (Yukon) Ltd. — November 1979."

August 1982 Foothills

Reasons for Decision

— "National Energy Board Reasons for Decision in the Matter of an Application under Part IV of the National Energy Board Act and Part II of the Northern Pipeline Act (Toll Application) of Foothills Pipe Lines (Yukon) Ltd. — August 1982."

THE FOOTHILLS COMPANIES

- Foothills Pipe Lines (Yukon) Ltd., which is owned 50 percent each by NOVA and Westcoast, is the parent company responsible for the Canadian portion of the Alaska Highway Natural Gas Pipeline Project. Ownership of the existing and proposed sections of the pipeline is segmented into six federally-incorporated subsidiaries.
- Foothills Pipe Lines (Alta.) Ltd., which is owned 51 percent by Foothills (Yukon) and 49 percent by NOVA, will own and manage the operation of approximately 1,300 kilometres of pipeline through Alberta. It presently owns and manages the operation of approximately 380 kilometres in Zone 6 and 125 kilometres in Zone 7.
- Foothills Pipe Lines (North B.C.) Ltd., which is owned 51 percent by Foothills (Yukon) and 49 percent by Westcoast, will own and manage the operation of approximately 710 kilometres of pipeline through northern British Columbia.
- Foothills Pipe Lines (North Yukon) Ltd., which is a wholly-owned subsidiary of Foothills (Yukon), will own and manage the operation of approximately 1,180 kilometres of pipeline ("the Dempster lateral") through the Yukon and Northwest Territories which will transport gas from the Mackenzie Delta to the mainline near Whitehorse.
- Foothills Pipe Lines (Sask.) Ltd., which is owned 51 percent by Foothills (Yukon), 44 percent by TransCanada and 5 percent by Consolidated, owns and manages the operation of approximately 260 kilometres of pipeline in Zone 9 in Saskatchewan.
- Foothills Pipe Lines (South B.C.) Ltd., which is owned 51 percent by Foothills (Yukon) and 49 percent by ANG, will own and manage the operation of approximately 170 kilometres of pipeline in southern British Columbia. It presently owns and manages the operation of approximately 90 kilometres in Zone 8.
- Foothills Pipe Lines (South Yukon) Ltd., which is a wholly-owned subsidiary of Foothills (Yukon), will own and manage the operation of approximately 830 kilometres of pipeline through the southern Yukon Territory.

EXECUTIVE SUMMARY

(NOTE: This summary is provided solely for the convenience of the reader and does not constitute part of this decision or the reasons for it).

The Application

In July 1983 the Board informed Foothills that it intended to review its 1984 O & M Expense Budget submission and 1983 Budget Variance Report at a public hearing during the first half of 1984. In March 1984, the Board indicated that it also intended to review, during the hearing, the Company's application for authorization to include proposed payments to the Yukon Territorial Government in its rate base.

Foothills submitted its 1984 O & M Budget in November 1983 and its 1983 Budget Variance Report in February 1984. In April 1984 Foothills submitted an application which, among other things, requested approval of its rate base, one-time adjustment to the rate base, Phase II preliminary expenditures, tariff amendments and an increase in the rate of return on equity.

Decisions

The major decisions are summarized below.

Operating and Maintenance Expenses

Foothills' actual 1983 O & M expenses for all zones were \$22,425,818 which was \$1,933,818 over the approved budget. The Board disallows various expenses amounting to \$548,215 and approves an overrun recovery of the remaining \$1,385,603.

Foothills requested Board approval for a 1984 O & M Expense Budget of \$26,895,600. After adjustments amounting to \$833,600, the Board approves a budget of \$26,062,000.

1982 and 1983 Construction Costs

Foothills requested approval to include in rate base 1982 and 1983 construction costs amounting to \$306,681,000 and \$31,878,000 respectively. The Board approves these costs subject to adjustments

stemming from cost allocations relating to various O & M expenses. The recalculated rate bases for Zones 6, 7, 8 and 9 reflecting this decision are to be submitted to the Board for its approval.

Incentive Rate of Return

Foothills applied for approval of the one-time adjustment to rate base under the Incentive Rate of Return Scheme amounting to \$25,853,000 for Zones 6, 7, 8 and 9.

The Board requires Foothills to recalculate the one-time adjustment for each zone to reflect the adjustments required as detailed in these Reasons for Decision. Foothills shall submit the recalculated one-time adjustment to the Board for approval.

Phase II Preliminary Expenditures

During 1982 and 1983 Foothills accrued preliminary expenditures relating to Phase II of \$52,867,000 and \$43,956,000 respectively, including AFUDC. The Company has continued to accrue AFUDC on \$124,162,000 of preliminary expenditures which it is recovering through the Phase I Tariff — Special Charge. The Board disallows the AFUDC taken on the \$124,162,000 and, subject to the adjustment required to reverse the AFUDC, approves the 1982 and 1983 Phase II preliminary expenditures.

Proposed Payments to the Yukon Territorial Government

Foothills requested approval to include in the Phase II rate base proposed payments to the Yukon Territorial Government of up to \$350,000 per year for 1980 and 1981 relating to the Pipeline Coordinator's office. The Board approves the proposed payments and their inclusion in the Phase II rate base.

Operating Phase Rate of Return

Foothills applied for an increase in its allowed rate of return on equity from 16.0 percent to 16.5 percent. It is the Board's decision that the rate of return shall continue to be 16.0 percent.

Tariff Matters

Foothills requested amendments to its tariff which would; (i) alter the method used to calculate the allowance for cash working capital included in its rate base; and, (ii) change the accumulated depreciation balance deducted from the rate base. The requested tariff amendments are disallowed. Foothills is required to submit a lead/lag study by 31 March 1985.

Federal Restraint Program

The Board examined Foothills' forecast 1984 cost of service to determine whether the Company is acting in accordance with the Federal Government's cost and price guidelines. After giving effect to the changes flowing from these Reasons for Decision, the Board is satisfied that Foothills' cost of service is within the guidelines.

CHAPTER 1

THE APPLICATION

1.1 Background

During 1979 and 1980, Foothills Pipe Lines (Yukon) Ltd. appeared before the Board at a hearing conducted in four phases concerning the tolls and tariffs to be charged on the Canadian sections of the Alaska Highway Natural Gas Pipeline, and other related matters including the Incentive Rate of Return Scheme and the financing of the Canadian sections.

Concurrently with the last part of the tariff hearing, Phase IV(b), the Board convened a hearing commencing on 29 April 1980 to provide Foothills (Yukon) with an opportunity to comply with the requirements of the amended Condition 12(1) of Schedule III to the Northern Pipeline Act, that is, to establish to the satisfaction of the Board and the Minister responsible for the Northern Pipeline Agency that financing had been obtained for the pre-build facilities and could be obtained at that time for the rest of the mainline in Canada. In July 1980, as a result of these two hearings, the Federal Government approved construction of the southern, or prebuild portions, of the system.

The Western Leg of the prebuild facilities, comprising Zone 7 in southwestern Alberta and Zone 8 in southeastern British Columbia commenced transporting gas on 1 October 1981. Gas commenced flowing on the Eastern Leg, which comprises Zone 6 in southeastern Alberta and Zone 9 in southwestern Saskatchewan, on 1 September 1982.

1.2 Application

The Board, by a letter dated 18 July 1983 (Appendix I), advised Foothills of its intention to review the Company's 1984 O & M Expense Budget, together with any 1983 budget variances, at a public hearing to be held during the first half of 1984.

In a submission, dated 30 November 1983, subsequently amended 16 April and 3 May 1984, Foothills requested Board approval of its proposed 1984 Operating and Maintenance Expense Budget. In a submission dated 29 February 1984, the Applicant sought Board approval for its 1983 O & M Budget Variance Report.

In a letter, dated 6 March 1984, the Board noti-

fied Foothills of its intention to review, during the next public hearing, the Company's submission, dated 13 December 1982, requesting authorization to include in its rate base proposed payments to the Yukon Territorial Government relating to the establishment and administration of the Pipeline Coordinator's office.

By Order No. RH-3-84, dated 15 March 1984 (Appendix II), the Board set down for public hearing Foothills' 1984 O & M Expense Budget submission, 1983 Budget Variance Report, proposed payments to the Yukon Territorial Government and the following additional matters:

- The Phase I construction costs incurred during 1982 and 1983;
- The one-time adjustment to rate base under the Incentive Rate of Return Scheme;
- The Phase II preliminary expenditures incurred during 1982 and 1983;
- The appropriateness of the operating phase rate of return; and,
- Other related matters.

On 16 April 1984, Foothills applied to the Board for an order or orders, pursuant to Part IV of the NEB Act and Part II of the Northern Pipeline Act, to amend Board Order No. TG-4-82 for approval:

- To include in the rate base with respect to Zones 6, 7, 8 and 9 the actual costs of construction for 1982 and 1983;
- For the one-time adjustment to the rate base with respect to Zones 6, 7, 8 and 9 based on the actual construction costs as at 31 December 1983 and forecast costs for 1984;
- Of an increase in the operating phase rate of return from 16.0 percent to 16.5 percent;
- Of preliminary expenditures and AFUDC incurred during 1982 and 1983 relating to Zones 1 through 5, 10 and 11 which constitute Phase II of the project; and,
- Of amendments to the tariffs of the Applicant's subsidiaries to alter the method used to calculate the monthly rate base.

The Applicant subsequently filed amendments to its application on 3 May and 18 May, 1984.

CHAPTER 2

OPERATING AND MAINTENANCE EXPENSES

2.1 1983 Budget Variance Report

2.1.1 Introduction

Foothills' approved O & M expense budget for the year ended 31 December 1983, for all of the operating zones, was \$20,492,000. The 1983 Variance Report filed on 29 February 1984 reported actual expenses of \$22,425,818 and Foothills requested authorization to recover the overrun of \$1,933,818 (see Table 2.1), plus carrying charges calculated in accordance with Orders TG-6-81 and TG-4-82, as amended, in its 1984 cost of service toll.

2.1.2 Salaries, Wages and Benefits

Information provided by Foothills in its 1983 Budget Variance Report showed that actual salaries, wages and benefits for both Foothills (Yukon) and the operating companies were in excess of the approved budget.

Evidence adduced during the hearing indicated that the Board, when approving the 1983 O & M budget, had reduced the budget application submitted by Foothills by an amount of 10 percent in all zones. A Company witness claimed that it was impossible to operate within the approved budget because half the year had passed before Foothills was informed of the approved budget amount and it was not then possible to revise the budgets with the operating companies to effect the required reductions.

The witness further stated that Foothills had

operated during 1983 within the O & M budget originally submitted by the Company.

The Board, when approving Foothills' 1983 O & M budget at a level equal to 90 percent of the amount which was applied for, realized that the Company could encounter some difficulty in keeping costs within the approved limits. There always exists, however, the possibility that the O & M budget which, after being reviewed by the Board, will be approved for an amount which is lower than that which the Company applied for. In such circumstances, the Board would expect Foothills and the operating companies to make a determined and reasonable effort to keep expenses within the approved limits or at least to effect some measure of reduction within the period of the budget year still remaining. The Board finds it implausible that the Company was unable to identify a single item of expenditure where steps could have been taken to comply with the Board's decision.

Notwithstanding the above, after taking into consideration the circumstances which caused salaries, wages and benefits to exceed the budget during 1983, the Board has concluded that the expenditures were not imprudent and, therefore, the recovery of the overrun is approved.

2.1.3 Other Charges to Operations

(i) Ottawa Office

Foothills maintains an office in Ottawa which is shared with six associated companies including NOVA, Westcoast and Pan-Alberta. The procedure

Table 2.1

**Foothills 1983 O & M Expense
Actual vs. Budget**

	Zone 6	Zone 7	Zone 8	Zone 9	Total
Actual	\$9,959,190	\$1,813,254	\$4,323,205	\$6,330,169	\$22,425,818
Budget	8,921,900	1,447,000	3,403,200	6,719,900	20,492,000
Over/(Under)	\$1,037,290	\$ 366,254	\$ 920,005	\$ (389,731)	\$ 1,933,818

for allocating the costs of operating this office was changed during 1983. Under the new arrangements, Foothills absorbs 50 percent of the cost of operating the office and recovers the balance from the other companies that share the facility.

As a result of changing the cost-sharing procedure, Foothills' operations were overcharged by \$115,900 during 1983. The Company proposes to adjust this amount by reducing the charge to operations by \$115,900 during 1984.

Decision

The Board believes that operating costs should be charged to the year during which they were incurred. Accordingly, the 1983 O & M Budget Variance is reduced by \$115,900. Carrying charges on the budget overrun are to be adjusted to reflect this adjustment.

(ii) Severance Pay

In April 1982, Foothills announced that the completion date for the Phase II facilities had been deferred from 1987 to 1989. As a result of the deferral and the winding down of construction activity on Phase I, the Company began reducing staff in anticipation of the transition from a construction to an operating company. During the remainder of 1982 and continuing in 1983, employee lay-offs caused Foothills to make severance payments totalling \$1,388,000 and \$2,515,503 respectively. These costs were included in Foothills (Yukon)'s overhead and allocated to Phase I, Phase II and Operations as shown on Table 2.2.

Table 2.2

Foothills' Allocation of Severance Pay

	Phase I	Phase II	Operations	Total
1982	\$1,230,646	\$108,374	\$ 48,980	\$1,388,000
1983	1,463,403	151,182	900,918	2,515,503

Decision

The Board believes that the cost of terminating employees who were hired primarily for the construction phases of the project should not be classified as operating and maintenance expenses but rather are properly classified as project costs and allocated accordingly. Evidence adduced during the hearing indicated that, on that basis, there would be a larger amount allocated to Phase I than to Phase II. The Board, therefore, directs that severance payments of \$1,339,020 allocated to Phase I and Phase II in 1982, and all severance payments made in 1983 are to be allocated 60 percent to Phase I and 40 percent to Phase II.

The allocation of severance pay as approved by the Board will be found on Table 2.3.

Table 2.3

N.E.B. Approved Allocation of Severance Pay

	Phase I	Phase II	Operations	Total
1982	\$ 803,412	\$ 535,608	\$48,980	\$1,388,000
1983	1,509,302	1,006,201	NIL	2,515,503

(iii) Allocation of Lease Costs

Prior to the announcement of the deferral of Phase II, Foothills employed approximately 650 persons who were located in three office buildings in Calgary, Esso Plaza, Bow Valley Square and Foothills Place. The Company, in January 1982, anticipating the construction of the Phase II facilities, made a commitment to acquire sufficient office space in a separate location (Western Canada Place) to accommodate all of its employees. As office space in Calgary was at a premium at that time, the Company anticipated no difficulty in sub-leasing the space it was then occupying. However, as a result of the downturn in the economy, the rental market for office space in Calgary became very soft and Foothills found that it was unable to sublet the space.

This being the case, the Company continued making payments on the leases for Bow Valley Square and Foothills Place and negotiated with the owners of Esso Plaza to terminate the lease at that location. As a result, Foothills incurred costs totalling \$5,895,808 as follows:

(i)	termination of the lease at Esso Plaza	\$5,154,008
(ii)	rental payments for November and December 1983 for Bow Valley Square	168,800
(iii)	rental payments for Foothills Place	33,000
(iv)	rental costs on space at Western Canada Place, prior to occupancy	540,000
		\$5,895,808

Decision

The Board finds that payments made on the various leases relate to pipeline operations and planned Phase II activity. Therefore, it is not appropriate to charge Phase I Construction with any portion of these costs; nor is it reasonable to burden the Phase I Operations with more than the costs related to operating and managing that phase.

Accordingly, the costs related to the leases should be allocated between Operations and Phase II in the ratio of the person-years required for Operations and the person-years which would have been required for the Phase II construction activities (549) (650-101 = 549). On this basis, the costs are to be allocated as follows:

To Operations	$\frac{101}{650} \times \$5,895,808 =$	\$916,118
To Phase II	$\frac{549}{650} \times \$5,895,808 =$	\$4,979,690

As Operations was already charged with \$181,877 of these costs in 1982, the balance of \$734,241 is to be charged to Operations in 1983.

The additional amount to be charged to Operations in 1983 is calculated as follows:

Total lease costs for 1982 and 1983	\$916,118
Less:	
— amount charged to Operations in 1982	(181,877)
— amount already charged to Operations in 1983	(265,638)
Balance to be charged to 1983 Operations	\$468,603

2.1.4 Approvals

The Board approves a 1983 O & M budget overrun of \$1,385,603 together with carrying charges calculated monthly in accordance with Order No. TG-4-82, as amended, for the period ending 30 September 1984 to be recovered in Foothills' October cost of service. For details refer to Table 2.4.

The Ottawa office expense adjustment has been allocated in proportion to the total O & M costs per zone.

Foothills is to recalculate the monthly variance account balances for all zones on the basis that Ottawa Office charges were reduced throughout 1983, that no severance pay costs were included in operations and maintenance costs throughout 1983, and that the lease costs charged to Operations in 1983 were charged in the months incurred.

2.2 1984 Operating and Maintenance Expense Budget

2.2.1 Introduction

Foothills, by a submission dated 30 November 1983, filed its 1984 Operating and Maintenance Expense Budget in accordance with Order No. TG-6-81, as amended. In that submission, the Company request-

ed approval of a budget totalling \$26,983,700 relating to Zones 6, 7, 8 and 9.

Foothills amended its application in two subsequent filings and in the second of these submissions, dated 3 May 1984, requested approval of a total 1984 budget of \$26,895,600 as detailed in Table 2.5.

2.2.2 Salaries, Wages and Benefits

(i) Salaries and Wages

Expenditures by Foothills (Yukon) for 1984 salaries and wages are budgeted to exceed 1983 actuals by approximately 10.8 percent. The Company adduced evidence which showed that no general increases were provided for in the 1984 budget but rather a 5 percent increase in salaries and wages amounting to \$218,000 is to be allocated to employees on the bases of merit. This arrangement was found to be consistent with the intent of the Federal Government's "6 and 5" cost and price guidelines. The balance of the increased cost forecast for 1984 is a consequence of company wide staff reductions resulting from the winding down of construction activities. The most experienced staff with skills considered to be best suited to the future operations of the company were retained. This had the effect of increasing the average salary level as these employees generally earned more than the employees who were let go.

Foothills also provided statements from the operating companies to demonstrate their compliance with the "6 and 5" guidelines.

(ii) Number of Person-Years

For 1984, Foothills projected the utilization of 101.3 person-years relating to pipeline operation. This represents a slight decrease of 0.4 person-year from the 1983 actual of 101.7 person-years.

Operating companies projected an increase of 1.5 person-years from 52.9 in 1983 to 54.4 in 1984.

Table 2.4

Foothills' Approved 1983 O & M Budget Overruns

	Zone 6	Zone 7	Zone 8	Zone 9	Total
Budget Variance	\$1,037,290	\$366,254	\$920,005	\$(389,731)	\$1,933,818
Less:					
NEB Adjustments					
Ottawa Office	(51,471)	(9,365)	(22,345)	(32,719)	(115,900)
Severance Pay	(225,230)	(225,229)	(225,229)	(225,230)	(900,918)
Lease Costs	117,151	117,151	117,150	117,151	468,603
Approved Variance	\$ 877,740	\$248,811	\$789,581	\$(530,529)	\$1,385,603

Table 2.5

**Foothills' Amended 1984 O & M Budget Application
(\$000)**

	Foothills (Alta.) Zone 6	Foothills (Alta.) Zone 7	Foothills (South B.C.) Zone 8	Foothills (Sask.) Zone 9	Total
Foothills (Yukon) Costs					
— Operating Expense	\$ 6,683.2	\$2,196.1	\$2,061.8	\$4,728.4	\$15,669.5
Zone 6					
— Operating Agreement	4,804.4	-	-	-	4,804.4
Zone 7					
— Operating Agreement	-	288.8	-	-	288.8
Zone 8					
— Gas Transportation Tariff	-	-	1,824.6	-	1,824.6
Zone 8					
— Operating Agreement	-	-	919.1	-	919.1
Zone 9					
— Operating Agreement	-	-	-	3,389.2	3,389.2
Total Operating Costs	\$11,487.6	\$2,484.9	\$4,805.5	\$8,117.6	\$26,895.6

(iii) Employee Benefits

Foothills' employee benefit costs are expected to decrease slightly in 1984 by an amount of \$4,200. The Applicant said that this decrease is attributable to lower costs of employee benefits.

With regard to operating companies, employee benefit costs are projected to increase by 2.7 percent in 1984 over the 1983 actual.

Decision

The Board approves the budgets for salaries, wages and employee benefits as contained in Foothills' amended 1984 O & M Budget Application.

The Board also approves a budget of 101.3 person-years for Foothills (Yukon) and 54.4 person-years for the operating companies.

The Board, however, while approving the requested 1984 person-years, expects Foothills to continue monitoring its staff requirements and anticipates that the deferral of Phase II and the downscaling of the Company's operations will be reflected in a further reduction of the 1985 person-year requirements submitted as part of its O & M budget submission.

2.2.3 Other Charges to Operations

(i) Ottawa Office

The Company maintains an Ottawa office (refer to Section 3.1.3 (i)) for which the total budgeted operating costs for 1984 are \$488,200. An intervenor suggested that an office of this size is no longer required. The Company indicated its intention to reduce the size of this office in September 1984 by subletting approximately 40 percent of the space.

Decision

The Board accepts the Company's view that it has a requirement to maintain an office in Ottawa although on a smaller scale. As a consequence it expects Foothills to initiate steps during the last quarter of 1984 to reduce the amount which is charged to Operations by at least 40 percent.

In view of the deferral of Phase II of the project and the resulting reduction of corporate activity, the Board also expects Foothills to initiate steps to ensure that the cost of maintaining this office during 1985 and subsequent years is allocated on a more equitable basis among the companies which benefit from the space.

(ii) *Severance Pay*

Evidence adduced during the hearing indicated that Foothills included an amount of \$360,000 in its 1984 O & M budget covering costs related to severance pay. Of this amount the Company intends charging \$306,000 to operations through the Foothills (Yukon) overhead allocation.

The Board has previously determined at Section 2.1.3(ii) of these Reasons that these severance payments do not relate to Operations but are attributable to the completion of Phase I and the postponement of Phase II construction activities.

Decision

The Board has reduced the 1984 Operating and Maintenance Budget covering severance payments by \$306,000 and directs that severance pay costs incurred by Foothills in 1984 be allocated on the basis of 60 percent to Phase I and 40 percent to Phase II.

(iii) *Lease Costs*

Foothills has included in its overhead budget, payments for vacant office space at Bow Valley Square in Calgary of \$84,400 per month until 30 September 1984. Eighty-five percent (i.e. \$645,660) of this overhead is budgeted to be charged to Operations. Consistent with the Board's Decision on the 1983 lease costs (See Section 2.1.3(iii)), the Board authorizes Foothills to recover through charges to Operations a portion of the 1984 lease payments relating to Bow Valley Square calculated in the ratio of the number of employees working in Operations (101) to the number of employees forecast to work on Phase II (549). On this basis approximately \$118,000 of the anticipated lease payments of \$759,400 will be recovered from Operations.

Decision

The Board directs that the 1984 Foothills (Yukon) overhead costs to be allocated to Operations be re-

duced by \$527,660 for lease payments relating to Bow Valley Square. The 1984 lease termination charges in excess of \$118,000 are to be charged to Phase II.

2.2.4 Approvals

The Board approves a 1984 Operating and Maintenance Budget of \$26,062,000 as shown on Table 2.6.

2.3 Allocation of Foothills (Yukon) Overhead

Foothills (Yukon) currently allocates the portion of the overhead which is charged to Operations equally among Zones 6, 7, 8 and 9. It appears to the Board that this method places an unfair burden on the cost of service in Zones 7 and 8. A witness for Foothills testified that this method could have an impact on the netback process in the event of a return to variable export prices. However, he went on to say that under the present pricing policy, it has no detrimental effect on the netback to the Alberta producers. The witness also said that Foothills is not opposed to reviewing alternative methods of allocation and suggested as a possibility allocating overhead on a contractual volume basis.

Decision

In view of recent changes in pricing policy providing for negotiated export prices, the Board is concerned that the cost of service by zone be accurately determined. The Board, therefore, intends to review the allocation procedure and expects that, if a change is required, it will be reflected in Foothills' 1985 O & M budget application.

Foothills is, therefore, requested to submit, for the Board's consideration, its proposal for such a revised allocation procedure prior to filing its 1985 O & M budget. The Board expects that Foothills will consider various alternative procedures such as Volume/Distance or Direct Charges as the basis for allocating overhead charges to the four operating zones.

Table 2.6

**Foothills Approved 1984 O & M Expense Budget
(\$000)**

	Foothills (Alta.) Zone 6	Foothills (Alta.) Zone 7	Foothills (South B.C.) Zone 8	Foothills (Sask.) Zone 9	Total
Amended Application	\$11,487.6	\$2,484.9	\$4,805.5	\$8,117.6	\$26,895.6
Less NEB Adjustments:					
Severance Pay	(76.5)	(76.5)	(76.5)	(76.5)	(306.0)
Lease Costs	(131.9)	(131.9)	(131.9)	(131.9)	(527.6)
Approved Budget	\$11,279.2	\$2,276.5	\$4,597.1	\$7,909.2	\$26,062.0

CHAPTER 3 RATE BASE

3.1 1982 Construction Costs

The Applicant requested approval to include in its rate base the actual cost of construction for the calendar year 1982.

The actual construction costs are shown on Table 3.1.

Table 3.1

Foothills 1982 Actual Construction Costs

Zone 6 — Direct	\$138,928,000
— Foothills (Yukon)	22,812,000
— AFUDC	30,004,000
	\$191,744,000
Zone 7 — Direct	\$402,000
— Foothills (Yukon)	79,000
— AFUDC	107,000
	\$588,000
Zone 8 — Direct	\$1,622,000
— Foothills (Yukon)	346,000
— AFUDC	39,000
	\$2,007,000
Zone 9 — Direct	\$67,611,000
— Foothills (Yukon)	9,918,000
— AFUDC	34,813,000
	\$112,342,000
	\$306,681,000

The actual construction costs for 1982, including AFUDC, agree with the amounts shown in the Touche Ross & Co. Audit Report. Class "C" construction costs covered by Board exemption orders are excluded.

No intervenor presented evidence or opposed Foothills' application to include these construction costs in the rate bases of Foothills (Alta.), Foothills (South B.C.) and Foothills (Sask.).

Decision

The Board approves, for inclusion in the appropriate zone rate bases, the 1982 actual construction costs as applied for subject to the adjustments required by the decisions in respect of the allocation of certain expenditures as specified in Section 2.1 of these Reasons.

3.2 1983 Construction Costs

The Applicant requested approval to include in its rate base the actual cost of construction for the calendar year 1983.

The actual construction costs are shown on Table 3.2.

Table 3.2

Foothills 1983 Actual Construction Costs

Zone 6 — Direct	\$3,937,000
— Foothills (Yukon)	1,682,000
	\$5,619,000
Zone 7 — Direct	\$68,000
— Foothills (Yukon)	(1,000)
	\$67,000
Zone 8 — Direct	\$235,000
— Foothills (Yukon)	40,000
	\$275,000
Zone 9 — Direct	\$17,065,000
— Foothills (Yukon)	5,570,000
— AFUDC	3,282,000
	\$25,917,000
	\$31,878,000

The actual construction costs for 1983, including AFUDC, agree with the amounts shown in the Touche Ross & Co. Audit Report.

No intervenor presented evidence or opposed Foothills' application to include these construction costs in the rate bases of Foothills (Alta.), Foothills (South B.C.) and Foothills (Sask.).

Cross-examination on costs relating to the extra work orders covering 1982 and 1983 construction, to the general trades strike which occurred in Saskatchewan during 1982 and to other matters revealed that such costs were prudently incurred and are, therefore, approved.

Decision

The Board approves, for inclusion in the appropriate zone rate bases, the 1983 actual construction costs as applied for, subject to the adjustments required by the findings in respect of the allocation of certain expenditures as specified in Section 2.1 of these Reasons. Foothills, after making all of the adjustments flowing from these Reasons for Decision, shall recalculate and submit to the Board for approval the rate bases for each of Zones 6, 7, 8 and 9.

3.3 Incentive Rate of Return

3.3.1 The Incentive Rate of Return Scheme

The Incentive Rate of Return Scheme (IROR) is a device which was put in place prior to construction of the Canadian portion of the Alaska Highway Natural Gas Pipeline to provide Foothills with a financial incentive to control costs during construction of the pipeline.

The scheme provides for a one-time adjustment to be made to the Company's rate base, the size of which is determined by the degree of cost effectiveness achieved by Foothills in constructing the pipeline. Generally speaking, the degree of cost effectiveness is determined by comparing the actual cost of construction with a previously approved Final Design Cost Estimate (FDCE) and, if costs are within a specified range, converting the amount by which costs are lower than the FDCE into a one-time adjustment to rate base. The amortization of the one-time adjustment and the return earned on the unamortized balance is the financial reward earned by the Company.

3.3.2 Final Design Cost Estimates — Zones 6 and 9

Foothills requested approval for certain scope changes to the Eastern Leg final design cost estimates as shown on Table 3.3.

Evidence adduced by Foothills indicated that in 1980, the Company could not be expected to foresee the requirement for a low flow impeller to accommo-

date the reduced throughput it is now experiencing. Minor spare parts which were included in the final design cost estimates were acquired by NOVA and TransCanada, the operators of the pipeline in Zones 6 and 9 respectively, and are no longer carried on the accounting records of Foothills. The Applicant indicated that, as a result of a review of the spare parts requirements, both major and minor, for the Eastern Leg in 1982, it was found necessary to establish a more comprehensive storage of parts in order to deal effectively with unforeseen and emergency situations.

Table 3.3

Foothills' Application for Scope Changes

	Zone 6	Zone 9
Low flow impeller for the Jenner compressor station	\$ 378,889	-
Major spare parts for compressor stations at Jenner, Alberta and Richmond, Piapot and Monchy, in Saskatchewan and the meter station at Monchy.	1,186,089	\$4,287,205
	\$1,564,978*	\$4,287,205*

*Includes actual cost, overhead and PFUDC less deflation adjustment and minor spares.

Decision

The Board approves the inclusion of the cost of the low flow impeller at Jenner as a revision to the final design cost estimates for Zone 6. In addition, the deletion of the costs of minor spare parts is approved as a revision to the final design cost estimates for Zones 6 and 9.

The inclusion of the major spare parts in the final design cost estimates for Zones 6 and 9 is not approved. The Board does not question the prudence of the acquisition of those major spares but concludes that they do not qualify as scope changes. In addition, the Board directs the Applicant to transfer the cost of those major spare parts to NEB Account 150, in its accounting records for Zones 6 and 9 respectively, in accordance with Section 17 and the text of NEB Account 150 of the Gas Pipeline Uniform Accounting Regulations.

3.3.3 One-Time Adjustment to Rate Base —Zones 6, 7, 8 and 9

The Board had provisionally approved the one-time adjustments to the zone rate bases under the Incentive Rate of Return Scheme as shown on Table 3.4.

Table 3.4

Foothills' Provisional One-Time Adjustment to Rate Base

Zone 6 — Alberta, Eastern Leg	\$ 9,431,000
Zone 7 — Alberta, Western Leg	2,924,000
Zone 8 — South B.C., Western Leg	1,715,000
Zone 9 — Saskatchewan, Eastern Leg	\$ 8,006,000
	\$22,076,000

Foothills has requested final approval for the following IROR One-Time Adjustments to the zone rate bases.

Table 3.5

Foothills' Application for the One-Time Adjustment to Rate Base

Zone 6	\$11,518,000
Zone 7	2,975,000
Zone 8	1,725,000*
Zone 9	9,635,000
	\$25,853,000

* Revised during the hearing.

The methods used by the Applicant to calculate the cost performance ratio, the incentive rate of return and the one-time adjustment for each zone were in accordance with prior Board Decisions and the IROR Regulations implemented for the prebuild facilities by Board Order No. TG-5-81, as amended.

No intervenor opposed the Company's application to finalize the IROR one-time adjustments.

Decision

The Board approves the one-time adjustment to the zone rate bases subject to the required adjustments resulting from the Board's findings in Chapters 2 and 3 of these Reasons concerning the allocation of Foothills (Yukon) costs and the revisions to the final design cost estimates for Zones 6 and 9.

The Applicant shall recalculate the one-time adjustment for each zone in accordance with the foregoing and submit the recalculations to the Board for approval. In addition, the accounts of Foothills (Alta.), Foothills (South B.C.) and Foothills (Sask.) and the related shipper billings should be adjusted accordingly.

3.4 1982 and 1983 Phase II Preliminary Expenditures

The Applicant requested approval of Phase II Preliminary Expenditures as shown on Table 3.6.

The preliminary expenditures relating to 1982 and 1983 agree in total with the amounts shown in the Touche Ross & Co. Audit Reports for those years.

Table 3.6

Foothills Phase II Preliminary Expenditures Application (\$000)

	Expenditures	AFUDC	Total
1982			
Foothills (Yukon)	-	16,909	16,909
Foothills (South Yukon)	13,070	11,580	24,650
Foothills (North B.C.)	4,417	2,568	6,985
Foothills (Alta.)	2,871	968	3,839
Foothills (Sask.)	-	79	79
Foothills (North Yukon)	9	396	405
	20,367	32,500	52,867
1983			
Foothills (Yukon)	-	19,770	19,770
Foothills (South Yukon)	2,597	14,609	17,206
Foothills (North B.C.)	878	3,371	4,249
Foothills (Alta.)	835	1,346	2,181
Foothills (Sask.)	-	90	90
Foothills (North Yukon)	-	460	460
	4,310	39,646	43,956

An important hearing issue concerning the preliminary expenditures was the inclusion of AFUDC on \$124,162,000 of prior years' preliminary expenditures that qualified for the Special Charge; that issue is discussed in Section 3.5 of this Chapter.

The proposed payments to the Yukon Territorial Government are not included in the foregoing preliminary expenditures but are discussed in Chapter 4 of these Reasons.

Northwest Alaska and Foothills (Yukon) announced on 30 April 1982 that the completion date for the construction of Phase II facilities had been deferred from 1987 to 1989. During the hearing, a witness for Foothills (Yukon) stated: "Our current view is that the pipeline will not be built until the 1990's". In addition, it was confirmed during the hearing that Westcoast ceased accruing AFUDC on its investment in Phase II facilities as of 1 January 1983 and similarly, NOVA wrote down its investment in the project on 31 December 1983.

The intervenors questioned the Applicant on the continuing deferment of Phase II construction, the "used and useful" principle of utility regulation in relation to the usefulness of certain preliminary expenditures to a pipeline that may be built in the 1990's, and the likelihood of Foothills seeking future "Special Charge" treatment for the 1982 and 1983 preliminary expenditures. The Applicant's response was that generally those questions could not be answered specifically at this time because of the many uncertainties facing Phase II of the project.

During final argument an intervenor raised the matter of Foothills' intention to continue accruing AFUDC on Phase II Preliminary Expenditures despite the deferral of the project. The Board notes that no evidence was adduced on this matter and, therefore, it is not prepared to direct the Company to discontinue the practice at this time. The continuation of the accrual of AFUDC on Phase II Preliminary Expenditures will, however, continue to be monitored.

Decision

The Board approves the 1982 and 1983 Phase II Preliminary Expenditures subject to the adjustments required by the Board's findings in Sections 2.1 and 3.5 of these Reasons for Decision.

3.5 AFUDC on the Phase II Special Charge

Foothills requested approval of preliminary expenditures of \$96,823,000 incurred during 1982 and 1983. Included in these preliminary expenditures is the accrual of AFUDC on \$124,162,000 of pre-1982 preliminary expenditures that qualified for the Special Charge under the Phase I Tariff. The Special Charge allows the Company to amortize and recover in its cost of service, at four percent per annum until 1 November 1988, the aforementioned \$124,162,000. It is also allowed a carrying charge of 16 percent, calculated on a pre-tax basis, on the unamortized balance.

The August 1982 Foothills Reasons for Decision stated:

"The amount to be amortized at this time will not be increased by further expenditures or further accumulations of AFUDC subsequent to 31 December 1981. However, the residual of the \$204 million which has been excluded from the above amortization and return will continue to accumulate AFUDC."

The Applicant's interpretation of the Board's Decision was that no further accrual of AFUDC could be made on the \$124,162,000 for purposes of the Special Charge but that it was permissible to record AFUDC in respect of total cumulative Phase II preliminary expenditures, including the \$124,162,000.

ProGas and CPA interpreted the Decision to mean that the Board was instructing the Applicant not to accrue AFUDC after 1981 on those Phase II preliminary expenditures that qualified for the Special Charge but AFUDC could continue on that portion of the cumulative Phase II preliminary expenditures (amounting to approximately \$73 million)¹ that did not qualify for the Special Charge.

To assist the intervenors and the Applicant in the interpretation of the August 1982 Foothills Reasons for Decision in respect of AFUDC on preliminary expenditures, "Draft Regulations Respecting the Ac-

counting for the Special Charge in the Tariff on the Prebuilt Facilities of the Alaska Highway Natural Gas Pipeline" were filed as Exhibit A-9 during the hearing. In addition, counsel for the Board made a statement of his interpretation of the Board's Decision on AFUDC as related to the Special Charge. His statement concluded that the \$124 million which relates to the Special Charge should properly have been, in effect, deducted from Phase II preliminary expenditures, with the result that AFUDC would no longer be charged on the \$124 million.

In argument, the Applicant stated:

"Mr. Chairman, we don't think that the remark in the Decision is determinative of the issue one way or the other. We believe you should deal with this question on its merits. Even if the Board's Decision has been interpreted by you in the manner in which the Board intended it at that time, it is open to you to change it."

ProGas made an objection to the Applicant's suggestion that the Board could change the 1982 Decision at this time.

The Board notes that the Touche Ross audit report for 1983, Exhibit B6, contains the following observation under Special Charge — Phase II preliminary expenditures:

"It should be noted that the Foothills group are continuing to calculate AFUDC on all mainline preliminary expenditures and record same as an addition to deferred charges."

Decision

The Board has considered all the evidence submitted and has reviewed that part of the August 1982 Foothills Reasons for Decision dealing with the request for amortization of and return on the mainline preliminary expenditures.

The Board notes that particular emphasis was placed on the views of the financial community during those 1982 proceedings and the Applicant stated that the investment community views capitalized carrying charges less favourably than it does cash earnings. A corollary to that from a regulatory point of view would be that an asset earning a cash return would also not be entitled to accrue carrying charges.

The Board finds that the Applicant's interpretation of that portion of the August 1982 Decision relating to AFUDC on the preliminary expenditures sub-

1. The total Phase II Preliminary Expenditures of approximately \$204 million was subsequently revised to \$197,118,000 pursuant to the Board's Decisions of August and October 1982. \$124,162,000 was approved for recovery under the Special Charge leaving a balance of \$72,956,000 that did not qualify.

ject to the Special Charge is incorrect. The Board, therefore, disallows the AFUDC taken on \$124,162,000 for each of the years 1982 and 1983.

The Board directs the Applicant to recalculate

its AFUDC on the Phase II preliminary expenditures on the basis of the above Decision and to adjust its records accordingly. These calculations and adjustments are to be filed with the Board and be subject to NEB audit.

CHAPTER 4

PROPOSED PAYMENTS TO THE YUKON TERRITORIAL GOVERNMENT

4.1 Background

The Company requested approval to include in Phase II rate base proposed payments to the Yukon Territorial Government of up to \$350,000 for each of the years 1980 and 1981. These payments are to pay costs incurred in the Yukon relating to the establishment and administration of a Yukon Office of the Pipeline Coordinator. This item was previously applied for in the 1982 hearing and at that time, the Board was of the opinion that insufficient evidence had been provided to determine the purpose and regulatory status of this office. Accordingly, the Board deferred its decision on the \$350,000 request for 1981 and rescinded a prior approval of \$350,000 for 1980 pending receipt of further information.

4.2 Application

The evidence in this hearing indicated that Foothills would require various approvals issued under the authority of the Yukon Territorial Government in relation to the construction of the pipeline. The Yukon Office of the Pipeline Coordinator is responsible for coordinating the activities of the Yukon Territorial Government in this regard. There was no evidence to suggest that the costs incurred by this office were indirect socio-economic costs, indeed evidence indicated that similar payments by the project's American sponsors made to the Government of the State of

Alaska had been approved by the Federal Energy Regulatory Commission for inclusion in rate base. Counsel for the Alberta Petroleum Marketing Agency argued that Alberta producers should not be required to pay for costs incurred in the Yukon. A witness for Foothills testified that it is not applying to include this payment in the special charge relating to the Phase II Preliminary Expenditures which was approved by the Board in its August 1982 Decision.

Decision

The Board is satisfied that the Office of the Pipeline Coordinator maintained by the Yukon Territorial Government (YTG) has provided considerable assistance to both Foothills and the Northern Pipeline Agency in advancing this project and has facilitated receipt of the required regulatory approvals from the YTG. It is the Board's decision that the proposed payments qualify for inclusion in the Phase II rate base under item 14 of annex 4 of the Agreement between Canada and the United States of America on Principles Applicable to a Northern Natural Gas Pipeline as "costs of surveillance and related studies required by regulatory bodies or applicable laws". Accordingly, the Board authorizes the inclusion of payments to the Yukon Territorial Government, of up to \$350,000 per year for the years 1980 and 1981, in the Phase II rate base when such payments are made.

CHAPTER 5

OPERATING PHASE RATE OF RETURN

5.1 Background

The Board had determined in a previous hearing that Foothills would be regulated on the basis of a capital structure comprised of 75 percent debt and 25 percent equity, plus or minus 5 percent. The Board had also determined that the Company would be authorized to recover its actual cost of debt. As neither Foothills nor any intervenor requested a change relating to either of these items, capital structure and cost of debt were not at issue during this hearing.

5.2 Rate of Return on Common Equity

Foothills applied for a rate of return on common equity of 16.5 percent, representing an increase of one-half of one percentage point over the currently approved rate of 16.0 percent. The Company's requested rate of return was supported by the recommendations of its expert financial witnesses who focussed their analyses on the prospective operating risks facing the Foothills common equity investor vis-à-vis those facing the common shareholder of TransCanada.

One witness recommended a rate of return in the range of 16.5 to 17.0 percent based on her consideration of the discounted cash flow (DCF) and equity risk premium approaches to estimating the cost of equity capital, having regard to current and prospective economic conditions and to the level of business and financial risks presently confronting Foothills. The witness was of the view that the Company's business risks have increased primarily due to the significant deterioration of demand for natural gas in the United States. This was despite her belief that Foothills Phase I physical and supply risks are presently less than those anticipated for the entire line at the time of the November 1979 Foothills Reasons for Decision because of the elimination of the Phase II risks associated with a single supply of natural gas and a single unlooped pipeline passing through discontinuous permafrost. In addition, she indicated that the Board should place less reliance on the full cost of service provisions of Foothills' tariff than it did in 1979 in making a finding with respect to

the operating phase rate because, in her view, the creditworthiness of the shippers making payments to Foothills is now significantly less than the level envisioned at the time of the Board's 1979 findings. In this regard, the witness indicated that the financial resources of Foothills' present shippers are limited in comparison with the resources of shippers envisioned at the time of the 1979 hearing, and that their ability to make payments in the event of service interruptions is correspondingly reduced.

Notwithstanding this witness' position, cross-examination indicated that the makeup of the shippers on the Foothills' system had not been established at the time of the 1979 hearing, and that while the assets of Foothills' existing principal shipper might not be considered substantial, a Company witness admitted that this shipper's owners, Alberta Energy Company Ltd. and NOVA, are to be regarded as having substantial means.

Based on these factors, and her view that the Applicant faces greater financial risks than TCPL, the witness was of the view that Foothills today is riskier than TransCanada. She subsequently concluded that the rate of return required to invest in Foothills is 50 to 100 basis points higher than that required by investors in TransCanada.

Through her application of the DCF approach the witness estimated the current investors' required rate of return (IRR) for two high-quality Alberta utilities which she felt most closely resemble "pure" utilities. Based on a growth rate estimate of at least 8.0 percent, and a dividend yield ranging from 7.2 to 7.4 percent, the witness was of the view that the IRR for the two high-grade utilities was no less than 15.25 percent. Adjusting this result to compensate for the Applicant's higher risks, she concluded that Foothills' IRR lay in a range of 15.75 to 16.25 percent.

CPA took exception to the witness' DCF growth rate estimate during final argument. Specifically, it suggested the estimate was questionable in that the witness relied on a consensus estimate of earnings for her two company utility sample, which was based on the views of an unacceptably small number of analysts.

The witness' risk premium approach involved a review of a number of historical risk premium studies. In this regard the witness indicated that the studies she reviewed generally supported the findings of a study by Ibbotson and Sinquefeld entitled, "Stocks, Bonds, Bills and Inflation" which indicated that the average equity risk premium over long-term government bond yields was in the order of 6.1 percentage points. The witness then judgmentally adjusted this figure downwards to a range of 3.0 to 4.0 percentage points, noting that equity risk premiums tend to narrow as nominal and real interest rates rise due to the impact of taxes on returns experienced by taxable investors. As a result, based on her updated test year forecast of 12.75 to 13.25 percent for long-term Government of Canada bond yields, the witness concluded that the equity risk premium technique indicated that Foothills' IRR was in the order of 16.25 to 16.75 percent.

The witness stated that the rate of return on equity should be sufficiently high to attract capital without diluting the equity of existing shareholders. Accordingly, based on her view that this implied a minimum prospective market-to-book ratio of 110 percent, she concluded that return on equity ranges of 16.5 to 17.0 percent and 17.0 to 17.6 percent were indicated by the DCF and equity risk premium approaches respectively. The witness subsequently recommended an operating phase rate of 16.5 to 17.0 percent.

The Applicant's second expert witness considered the comparable earnings, DCF and equity risk premium approaches to estimating the cost of equity capital. These techniques were considered in light of current and prospective economic conditions and having regard to changes in the operations phase risks from those discussed in the November 1979 Foothills Reasons for Decision.

The witness found the physical-operating risks of the existing Phase I system to be less than those anticipated for the entire line (Phase I and Phase II) because of a reduction of the risks arising from an unlooped pipeline passing through inhospitable terrain, requiring new technological features. Alternatively, he viewed market risks to be quite different, and in some respects considerably greater than those originally envisioned, but concluded that it is not possible to compare the anticipated market risks for the entire line with those presently facing Foothills. On balance, however, the witness viewed the business risks presently facing Foothills as no less than those of TCPL but quite close to those of Westcoast.

The witness contended that the 25 percent equity component in Foothills' capital structure used for toll-making purposes reflects inherently greater

financial risks than the 28 to 30 percent ratio approved in recent years for TransCanada, or the 35 percent approved for WTCL. Using a 30 percent common equity ratio as a minimum base reference point for quantifying the impact of differential financial risks, he estimated that the difference between a 25 percent and a 30 percent common equity ratio calls for an increase in the rate of return on equity of 75 to 100 basis points. The required differential was subsequently reduced to a level of 50 basis points to reflect the beneficial impact of tax normalization on Foothills' "quality" of earnings compared with those of TCPL and Westcoast. Making a final adjustment to compensate for the differences in risk between TransCanada and WTCL and the low risk companies for which he estimated the cost of equity capital, he concluded that the overall risk differential warranted an upward adjustment of 50 to 75 basis points to the cost of equity determined for this latter group.

The witness applied the comparable earnings test to six samples of low-risk industrial companies premised on his belief that the achieved returns in the last business cycle provide a reasonable proxy for prospective returns over the current cycle. Based on the achieved returns of his sample groups, the witness concluded that the comparable earnings test indicated a return on equity in the range of 16.0 to 16.5 percent for the typical high-grade utility. Giving recognition to the higher risks of Foothills, he concluded that a rate of return of 16.5 to 17.0 percent would be appropriate.

Neither the expert witness representing CPA nor Foothills' first witness utilized the comparable earnings technique in determining the Company's cost of equity capital. In this connection, the former witness suggested that the use of this approach places too great an interpretative load on the analyst, while the latter viewed this test to be of limited value and less reliable than the DCF test.

The Applicant's second witness applied the DCF technique to three non-diversified electric-gas distribution utilities, a group of five telephone companies and to four of the six samples of industrial companies used in his comparable earnings analysis. In his opinion, the results of his studies suggested a "bare-bones" cost in the range of 14.75 to 15.0 percent for these groups, which he viewed to be of lesser risk than the Applicant. Modifying these results to reflect this risk differential based on his previously indicated range of 50 to 75 basis points, he concluded that Foothills' implicit "bare-bones" cost of capital is approximately 15.5 percent. In order to provide for flotation costs and provide for a reasonable degree of financial integrity, the witness modified this rate to reflect a market-to-book ratio ranging from 1.1 to 1.15, resulting in a rate of return require-

ment of 16.4 to 16.8 percent. He went on to indicate that this type of allowance for financing and market pressure should always be included in the cost of capital, regardless of any necessity to issue new common stock.

CPA argued that the Board should reject this witness' DCF findings. Specifically, it was of the view that the historical growth rates on which the witness placed some reliance overstate the expectations of investors today. The Board notes, however, that the adopted 7.5 percent growth rate is significantly less than the growth rates implicit in the historical data.

The witness undertook two studies to measure the long-term equity risk premium appropriate to Foothills' circumstances. His analyses suggested that longer-run risk premiums of about 4.0 percentage points over long-term Government of Canada bond yields and 5.0 percentage points over preferred stock yields were applicable. Adding these premiums to his projected long-term Government bond and preferred share yields of 12.5 and 10.25 percent respectively, the witness estimated that the basic cost of equity capital lay in a range of 15.25 to 16.5 percent. Adjusting the midpoint of the range for flotation costs, he concluded that Foothills' cost of equity capital was no less than 16.5 percent.

CPA disagreed with these findings and indicated in final argument that the approach adopted was unsuitable as it did not give sufficient weight to tax changes introduced in 1978 and to changes in recent years in the relative risks of investments in public utility shares and long-term bonds.

Based on his comparable earnings, DCF and equity risk premium studies which yielded cost of equity capital estimates of no less than 16.5 percent, a minimum of 16.4 percent and no less than 16.5 percent respectively, the Applicant's second witness recommended a rate of return of no less than 16.5 percent.

CPA presented evidence in this matter and recommended a rate of return of 15 to 15 3/8 percent based on the testimony of its expert witness. In arriving at this recommendation the witness relied primarily on the DCF approach accompanied by an analysis of the appropriateness of the equity risk premium implicit in the result obtained from this technique. The witness considered these approaches in light of the risks associated with Foothills as compared to those of TransCanada, and having regard to current and prospective economic conditions.

The witness viewed the owners of Canadian gas transmission pipelines to be facing three general sources of business risk: the risk that the regulatory authority will set tolls at insufficient levels, the risk that a particular period's costs or revenues will

exceed or fall short of those utilized in setting the tolls, and the risk that the system will become unable to recover its fixed costs of operation, including those relating to financing. He went on to state that, in his view, Foothills faces minimal exposure in connection with the first two risks, and that the risk of the system becoming uneconomic to the point of being unable to service fully its financial obligations is the only material source of risk for Foothills' lenders and owners. Because of the uncertainty regarding the long-term viability of the Foothills system, he viewed Foothills as exposing investors to greater risk than would an investment in the utility component of TCPL.

Concerning financial risk, the witness adopted the position that the Company's common equity ratio of approximately 25 percent, compared to TransCanada's 28 or 30 percent ratio, does not result in a higher level of financial risk for Foothills than for the utility component of TCPL.

The witness derived his rate of return recommendation by applying the DCF technique to a sample of 20 low-risk non-utility companies. Based on his analysis, he concluded that the IRR for this group of companies lay in a broad range of 12.8 to 15.4 percent. However, as a result of his view that the utility activities of established Canadian gas transmission companies are less risky than his sample of low-risk non-utilities, the witness judged that the IRR for the utility activities of established gas transmission companies was no higher than 14.25 percent.

The Applicant differed with the witness' IRR findings. Specifically, it argued that this approach underestimated the IRR because, in its view, the dividend yield utilized reflected investors' higher expectations of future earnings while the dividend growth rate was calculated based on periods ending in 1983, a year of relatively depressed corporate returns.

The witness subsequently adjusted this IRR estimate to reflect renewed upward movement in interest rates, investors' greater risk exposure in Foothills compared to other gas transmission companies¹ and by a small amount to minimize the probability of dilution occurring if common equity were to be raised externally. Having regard to these adjustments, the witness recommended a common

1. The witness provided a net increment for this factor of 35 to 60 basis points over TransCanada's prospective cost of equity capital. The range reflects 50 basis points for Foothills' greater market risks reduced by 15 basis points because of the Company's superior cost of service protection. A further 25 basis points was cited as being implicitly allowed in the witness' "double-duty" dilution allowance in the event that it was not required to compensate investors for dilution.

equity rate of return within the range of 15 to 15 3/8 percent.

The witness noted the the risk premium implicit in his final rate of return recommendation exceeded the long-term Government of Canada bond rate by approximately 1 3/8 to 1 3/4 percentage points as of early May, 1984. However, cross-examination revealed this premium had diminished to a level of 1.2 to 1.6 percentage points by the time of the hearing. Noting that this implicit differential was below the level which had prevailed historically, the witness claimed that risk premiums have narrowed due to "lock-in" premiums² associated with high and volatile levels of inflation and, to a lesser extent, due to changes in tax legislation. During cross-examination, CPA's witness indicated that he viewed the current "lock-in" premium to be in the order of 2.25 to 2.75 percentage points. He further stated that investors in Foothills' common shares do not require this premium as an element of their equity rate of return as, in his view, they do not face the risk of being committed to a rate of interest that does not change with inflation. On the other hand, one of the Applicant's expert witnesses estimated that the "lock-in" premium incorporated in the current level of interest rates does not exceed 1.25 percentage points, and that even if it were considered to be of

greater significance, it would not warrant depriving utility shareholders of this component. Foothills' other expert witness was of the opinion that "lock-in" premiums do not exist, based on an informal review of short versus long-term Government of Canada bond rates.

Decision

The Board notes that there was significant disagreement among the witnesses with regard to the appropriateness of the techniques used and results obtained in the determination of the cost of equity capital for the Applicant. The Board is also of the view that the determination of an appropriate rate of return on equity necessarily involves the exercise of judgement. In this regard, the Board notes that there was general consensus regarding Foothills' investment risks. While the expert witnesses varied as to the weight they would assign the individual components, they agreed that the Applicant's overall risk was greater than the composite risk facing TCPL's utility operations. Specifically, the two Company witnesses and CPA's witness recommended that Foothills be awarded a rate of return on equity of 50 to 100 basis points, 50 basis points and 35 to 60 basis points greater than that of TransCanada.

Accordingly, having regard to all of the evidence presented, but giving particular emphasis to the witnesses' views concerning the relative risks of Foothills as compared with those of TCPL, the Board finds it appropriate to maintain Foothills rate of return on common equity at the currently approved level of 16.0 percent.

2. The "lock-in" premium was characterized as the compensation required by bondholders because of the possibility that actual inflation rates in future periods will exceed the rates currently being forecast for those periods.

CHAPTER 6

TARIFF MATTERS

6.1 Introduction

Foothills, by an amended application dated 18 May 1984, requested approval of changes to the tariffs of the Company's subsidiaries which would alter the method used to calculate:

- (A) the cash working capital allowance such that the allowance would be equal to 98.3 percent of:
 - (i) the cost of service for the prior month, less;
 - (ii) the operator companies' operating and maintenance expenses for the prior month which are payable at the end of the current month; and,
 - (iii) that portion of the prior month's cost of service which is comprised of and on common equity;
- (B) the monthly rate base, so that the Applicant would utilize the month opening balance of accumulated depreciation and not the average of the opening and closing balances.

The Applicant claims that the present method of calculating the cash working capital allowance and the use of the monthly average of accumulated depreciation when calculating the rate base prevents the Company from earning its allowed return on the rate base.

In support of the application to amend its tariffs, the Applicant submitted a lead/lag study.

6.2 Cash Working Capital Allowance

The Applicant is presently authorized to include in its monthly rate base an allowance for cash working capital equal to 150 percent of the current month's operating and maintenance expenses, which is equivalent to forty-five days O & M expenses (30 days x 150% = 45 days). The Company claims that this allowance is inadequate and does not compensate it for the lag between the date when charges such as interest on debt, current income taxes, deferred income taxes and depreciation are included in the cost of service and the date they are subsequently recovered in the toll.

Foothills further claims it is unique and unlike other companies regulated by the Board because the debt component of its capital structure is comprised of term bank loans and not long-term debt. These term bank loans require Foothills to make interest payments each month and not semi-annually as is usually the case with long-term debt.

Decision

It is the Board's opinion that a cash working capital allowance is provided to compensate a company's shareholders for the capital that they are required to invest, in addition to that invested in gas plant in service, for the day-to-day operating expenses of the pipeline. Such expenses typically include the cost of employees' wages and benefits, materials and supplies and the various services which a utility requires for its ongoing operations.

The Board believes that it is a principle of regulation that a cash working capital allowance is a function of operating and maintenance expense and that the determination of an appropriate allowance should be based on the time lag between the incurrence of a cash expenditure and its recovery. The time lags associated with the type of expenditures for which Foothills is seeking tariff amendments are not related to operating and maintenance expenses but are, however, among the many factors which the Board considers when setting the appropriate rate of return on equity. The Board is not persuaded that, as a result of its method of financing, Foothills is necessarily a special case. Other pipeline companies, having issued a variety of debt instruments, are required to meet interest payments more frequently than semi-annually. Moreover, items such as depreciation and deferred income taxes are, by definition, non-cash items and there is, therefore, no resulting time lag between an outflow of cash and its recovery.

Accordingly, it is the Board's decision that the requested change in the method of calculating the cash working capital allowance included in the rate base is denied. Foothills is directed to file with the Board, by 31 March 1985, a detailed lead/lag study.

6.3 Averaging of Accumulated Depreciation

The Applicant claims that by deducting the average of the monthly opening and closing balances of accumulated depreciation when calculating the monthly rate base, a premature reduction of the rate base occurs which prevents Foothills from earning its allowed return. Foothills argues that this is due to the rate base being reduced by one-half of the depreciation charge for the month, whereas the corresponding debt and equity invested in the rate base are outstanding for the entire month.

Decision

It is a principle of the Board's method of regulating the tolls of Foothills that the Company's return is calculated on the funds it has invested in its rate base, (determined in accordance with Board directions and decisions), not on the funds invested in its capital structure. Under this method of regulation, the Board believes that the plant assets which are used to transport gas on a day-by-day basis are continually being reduced in value because of normal wear and tear. The Board further believes that this reduc-

tion is properly reflected in Foothills' tolls by the use of the monthly average for gas plant in service and accumulated depreciation when calculating the rate base. The Board is of the view that the method used to determine the rate base is fair and equitable and, therefore, should not be changed.

In addition, it appears to the Board that the use of the monthly average of accumulated depreciation not only reflects events as they actually exist but is consistent with the use of the opening and closing balance of gas plant in service which provides the Applicant with the opportunity to earn a return on new plant units placed in service during a month. The probability that Foothills may not need to add new plant for several years should not be a consideration.

The Board does not accept Foothills' assertion that, as a result of the method used to determine the rate base, it is unable to earn its allowed return on equity. In the Board's view, the relationship between the determination of rate base and return on equity as claimed by Foothills does not exist. The requested tariff amendment is, therefore, disallowed.

CHAPTER 7

FEDERAL RESTRAINT PROGRAM

7.1 Background

On 28 June 1982, the Federal Government introduced a Wage and Price Restraint Program limiting increases in wages and prices under its control to a maximum of 6 percent during the first year and 5 percent during the second year of the program.

Pipeline companies under the Board's jurisdiction were advised, by letter 1 September 1982, that the Board intended to take this program into account when reviewing the employee compensation aspects of toll applications.

In a further letter, dated 18 January 1983, the Board advised these pipeline companies that:

"For the duration of the 6/5 restraint program the Board, bearing in mind the provisions of the National Energy Board Act governing the setting of just and reasonable tolls, will closely examine all elements of cost of service including rate of return on equity, to ensure where possible maximum compliance with the Government's cost and price guidelines.

Accordingly, in all future toll applications, applicants, in substantiating increases in all items of cost of service, should particularly address those increases which exceed the cost and price guidelines. The onus will be on appli-

cants to make their cases that, in respect of the tolls for which they are applying, they have to the maximum possible extent complied with the Government's guidelines."

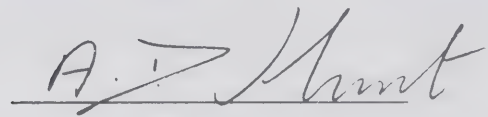
The first complete year of pipeline operations for Foothills was 1983 and, accordingly, there was no basis for determining the extent to which the 1983 cost of service complied with the 6/5 guidelines. Board staff auditors, however, verified that salary and wage increases granted to the Company's employees during 1983 were within the 6 percent wage guidelines.

7.2 Compliance with the Cost and Price Guidelines in 1984

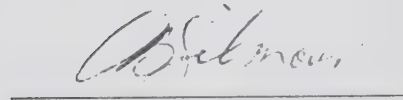
Actual salaries and wages are budgeted to increase by 5 percent during 1984. The budgeted cost of service for 1984 incorporating the 1984 Operating and Maintenance Budget, as applied for, as well as the requested rate of return and tariff adjustments would have resulted in an increase in the total cost of service of approximately 5.3 percent. After giving effect to the changes flowing from this decision, the cost of service is forecast to increase by less than 5 percent and the Board, therefore, is satisfied that the Company is acting in accordance with the Government's cost and price guidelines.

CHAPTER 8 DISPOSITION

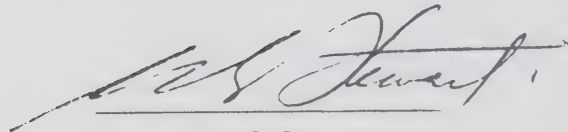
Order Nos. AO-8-TG-6-81 and AO-5-TG-4-82 which are shown as Appendices IV and V respectively, were predicated on these Reasons for Decision. The foregoing chapters, with the exception of the Executive Summary, together with the above Orders, constitute our Reasons for Decision and our Decision.



A.D. Hunt
Presiding Member



A.B. Gilmour
Member



W.G. Stewart
Member

APPENDIX I

File: N1552-F6-3
18 July 1983

Mr. H.N.E. Hobbs
Supervisor, Government Approvals
Foothills Pipe Lines (Yukon) Ltd.
1600 Bow Valley Square II
205 Fifth Avenue S.W.
Calgary, Alberta
T2P 2W4

Dear Mr. Hobbs:

**Re: Submission of November 30, 1982, as
Amended February 25, 1983, Regarding
the 1983 Operating and Maintenance
Budgets for Zones 6, 7, 8 and 9**

Enclosed are six (6) copies of Board Order
AO-4-TG-6-81, dated 18 July 1983.

The Board has directed me to advise you that
budget reductions of \$991,300, \$160,800, \$378,100
and \$746,700 for Zones 6, 7, 8 and 9 respectively,
were made after an extensive review of the 1982
actual operating and maintenance expenses

(O & M), the information filed in support of your sub-
mission and having regard to the current situation of
economic price restraint. Under the method of regu-
lation as stipulated by Board Order TG-6-81, as
amended, differences between actual and budget
O & M costs will be deferred, with interest as
stipulated, pending audit and review by the Board.

It is the intention of the Board to review the 1984
O & M budget, together with any 1983 budget
variances, at a public hearing to be held during the
first half of 1984.

Yours truly,

G. Yorke Slader
Secretary

Encl.

cc: Interested Parties pursuant to Board Order No.
TG-6-81

APPENDIX II

ORDER NO. RH-3-84

IN THE MATTER OF the National Energy Board Act and the Northern Pipeline Act and the regulations made thereunder, and

IN THE MATTER OF a public hearing respecting the tariffs and tolls to be charged by Foothills Pipe Lines (Yukon) Ltd. (hereinafter referred to as Foothills), and other related matters pursuant to Part IV of the National Energy Board Act and Part II of the Northern Pipeline Act.

BEFORE the Board on Thursday, 15 March 1984.

WHEREAS, pursuant to the National Energy Board Act, the tolls to be charged by Foothills must be just and reasonable, and

WHEREAS, pursuant to the National Energy Board Act, the Board may make orders with respect to all matters relating to traffic, tolls and tariffs, and

WHEREAS the accounting firm of Touche Ross & Co. has, on behalf of the Board, prepared and filed a report on the Alaska Highway Gas Pipeline Project costs for the year ending 31 December 1982, and

WHEREAS the accounting firm of Touche Ross & Co. intends, on behalf of the Board, to prepare and file a report on or about 13 April 1984, on the Alaska Highway Gas Pipeline Project costs for the year ending 31 December 1983, and

WHEREAS the Phase I (pre-build) construction costs and the Phase II (mainline) preliminary expenditures are subject to approval by the Board pursuant to Board Order No. TG-1-79, and

WHEREAS the rate base for each of Zones 7 and 8 on the Western Leg and Zones 6 and 9 on the Eastern Leg has yet to be finally established pursuant to Board Order No. TG-1-79, and

WHEREAS the one-time adjustment to rate base required pursuant to the incentive rate of return

scheme has yet to be finally established pursuant to the Northern Pipeline IROR Regulations, and

WHEREAS Foothills has filed with the Board its proposed operating and maintenance expense budget for the twelve month period ending 31 December 1984, pursuant to Board Order No. TG-6-81, and

WHEREAS Foothills, by application dated 29 February 1984, has applied to the Board for authority to recover certain deferred operating and maintenance expenses for the twelve month period ending 31 December 1983, together with carrying charges, pursuant to Board Order No. TG-6-81, and

WHEREAS the Board, by letter dated 6 March 1984, has directed that Foothills' application dated 13 December 1982, for approval of the inclusion of proposed payments to the Yukon Territorial Government in rate base, be considered during a public hearing, and

WHEREAS the Board intends to review Foothills' allowed rate of return.

IT IS ORDERED THAT:

1. The Board will hold a public hearing commencing at 9:30 a.m. local time on Tuesday, 29 May 1984, in the Hearing Room, 473 Albert Street, Ottawa, Ontario.
2. The Board will hear evidence respecting
 - (a) the tariffs to be established and tolls to be charged by Foothills,
 - (b) the Phase I construction costs incurred during 1982 and 1983,
 - (c) the one-time adjustment to rate base under the Incentive Rate of Return Scheme,
 - (d) the Phase II preliminary expenditures incurred during 1982 and 1983,
 - (e) the inclusion in tolls of the proposed payments to the Yukon Territorial Government for accruals in 1980 and 1981 for services rendered,
 - (f) the operating phase rate of return,
 - (g) operating and maintenance expense budget for 1984,

- (h) the operating and maintenance expense variances for 1983, and
 - (i) other related matters.
- 3. The proceedings will be conducted in either of the official languages and simultaneous interpretation will be provided should a party to the proceedings request such facilities in his intervention.
- 4. Foothills shall arrange to have the Notice of Public Hearing as set out in Appendix I to this Order published by 4 April 1984, or as soon thereafter as possible, in one issue of each of the "Colonist" in Victoria, and the "Sun" and "Le Soleil de Colombie" in Vancouver, British Columbia; the "Journal" and "Le Franco-albertain" in Edmonton, and the "Herald" in Calgary, Alberta; the "Leader-Post" and "L'Eau-Vive" in Regina, Saskatchewan; the "Winnipeg Free Press" and "La Liberté" in Winnipeg, Manitoba; the "Globe and Mail", the "Financial Post", and "Le Toronto Express", in Toronto, and the "Citizen" and "Le Droit", in Ottawa, Ontario; "Financial Times of Canada" in Montreal, Quebec; and as soon as may be possible in the Canada Gazette.
- 5. Foothills shall, by 19 April 1984, file with the Board the following information:
 - (a) calculations of final construction costs for Zones 7 and 8 on the Western Leg and Zones 6 and 9 on the Eastern Leg of the prebuilt pipeline including, where necessary, estimates of costs yet to be incurred, together with calculations of allowance for funds used during construction;
 - (b) calculations of the One-Time Adjustment to Rate Base under the Incentive Rate of Return Scheme for Zones 6, 7, 8, and 9 of the completed pipeline, including, where necessary, estimates of costs yet to be incurred for;
 - (c) evidence on the appropriateness of the operating phase rate of return in view of changing economic conditions in Canada;
 - (d) any additional comments Foothills may wish to add to its 13 December 1982 application to the Board for the inclusion, in the Phase II Rate Base, of proposed payments to the Yukon Territorial Government; and
 - (e) Foothills' comments on any related matters that might properly be considered as a subject of this hearing.
- 6. Foothills shall, as soon as possible, serve upon its shippers and customers in Canada and the United States, upon each party listed in Appendix II to this Order and upon each party who has intervened pursuant to paragraph 8 hereof:
 - (a) a true copy of this Order and any amendments to it which may be issued and,
 - (b) a true copy of Foothills' application dated 13 December 1982, requesting Board approval for inclusion in the Phase II rate base of proposed payments to the Yukon Territorial Government and,
 - (c) a true copy of the information required by paragraph 5 of this Order and, Foothills shall file proof of service thereof with the Board at the opening of the hearing.
- 7. Foothills shall, as soon as possible, serve upon its shippers and customers in Canada and the United States, and upon those parties who have intervened pursuant to paragraph 8 hereof:
 - (a) a true copy of the Touche Ross & Co. report to the Board on the Alaska Highway Gas Pipeline Project costs for the year ending 31 December 1982, and,
 - (b) a true copy of the Touche Ross & Co. report to the Board on the Alaska Highway Gas Pipeline Project costs for the year ending 31 December 1983, and,
 - (c) a true copy of its application for approval of the operating and maintenance expense budget for the year ending 31 December 1984, and,
 - (d) a true copy of its application for authority to recover certain deferred operating and maintenance expenditures incurred in excess of the budget limits as approved by the Board for the year ending 31 December 1983, and, Foothills shall file proof of service thereof with the Board at the opening of the hearing.
- 8. Any person intending to intervene in this hearing shall, by 19 April 1984, file with the Secretary of the Board thirty-five (35) copies of a written statement, in either of the two official languages, containing his submission, together with any supporting material. The submission shall contain the following:
 - (a) a concise statement of the facts from which the nature of the person's interest in the proceedings may be determined;
 - (b) the name and address of the intervenor or his solicitor to whom communications may be sent; and
 - (c) a statement with respect to the official language in which the person wishes to be heard.
- 9. Any intervenor shall, by 19 April 1984, serve three (3) copies of his submission on Foothills, and, as soon as possible, one (1) copy upon each party who has intervened pursuant to paragraph 8, and shall file written proof of service thereof at the opening of the hearing.

10. A list of intervenors will be distributed by the Board to all parties.
11. Any person who wishes to file an intervention after 19 April 1984 must file and serve a notice of motion, requesting leave to submit a late intervention. Such notice shall be filed and served in accordance with paragraph 7 of the Rules and Procedures set out in Appendix III to this Order.
12. Foothills shall prepare its direct evidence written in question and answer form with lines numbered (hereinafter called "written direct evidence") for each of its witnesses and shall,
- (a) on or before 19 April 1984, file thirty-five (35) copies thereof with the Board, and
 - (b) as soon as possible, serve one copy of the same upon any party who has intervened pursuant to paragraph 8.
13. Any person who has intervened pursuant to paragraph 8 hereof and who wishes to present direct evidence in the hearing shall, unless otherwise authorized by the Board, prepare written direct evidence, and, shall, by 10 May 1984, file thirty-five (35) copies with the Secretary of the Board and serve one (1) copy upon Foothills, and upon each other party who has intervened pursuant to paragraph 8.
14. Foothills or any person who has filed a written intervention pursuant to paragraph 8, or written direct evidence pursuant to paragraphs 12 or 13 shall, at the opening of the hearing, file proof of service and two copies of the application and filings, intervention or written direct evidence.
15. The Rules and Procedures set out in Appendix III to this Order shall, unless the Board otherwise directs, govern the conduct of the hearing.
16. During normal business hours any person may examine a copy of the application and all other material filed at:

Library,
National Energy Board,
9th Floor,
473 Albert Street,
Ottawa, Ontario
K1A 0E5

or

National Energy Board,
4500 16th Avenue N.W.,
Calgary, Alberta
T2B 0M6

or

Foothills Pipe Lines (Yukon) Ltd.,
1600-205 Fifth Avenue S.W.,
Calgary, Alberta
T2P 2V7

DATED at Ottawa, Ontario on Thursday, 15 March 1984.

NATIONAL ENERGY BOARD

G. Yorke Slader
Secretary

APPENDIX I

ORDER NO. RH-3-84

NATIONAL ENERGY BOARD

NOTICE OF PUBLIC HEARING

FOOTHILLS PIPE LINES (YUKON) LTD. TOLL HEARING

The National Energy Board will conduct a hearing to review certain matters respecting the tolls of Foothills Pipe Lines (Yukon) Ltd. pursuant to Part IV of the National Energy Board Act and Part II of the Northern Pipeline Act. The hearing will commence at 9:30 a.m. on 29 May 1984, in the Hearing Room of the National Energy Board, 473 Albert Street, Ottawa, Ontario.

The hearing will be public and will be held to obtain evidence and hear the relevant views of interested parties, groups, organizations, and companies.

Any person wishing to intervene should write or telex the Secretary of the Board, as soon as possible, requesting a copy of Order RH-3-84 (available in English or French) which sets out the procedure for intervening and the locations at which copies of the application may be examined. The deadline for filing interventions with the Board is 19 April 1984.

For further information, telephone the Board's Information Services at (613) 593-6936.

G. Yorke Slader
Secretary
National Energy Board
473 Albert Street
Ottawa, Ontario
K1A 0E5
Telex No:
(NEB OTT) 053 3791

Dated at Ottawa, Canada
15 March 1984

APPENDIX II

ORDER NO. RH-3-84

Attorney General for the
Province of British Columbia
Parliament Buildings
Victoria, British Columbia
V8V 4S6

Mr. Geoffrey Ho
Barrister and Solicitor
Legal Services
Alberta Energy and
Natural Resources
Petroleum Plaza — South Tower
9915 — 108th Street
Edmonton, Alberta
T5K 2C9

Attorney General for the
Province of Saskatchewan
Legislative Buildings
Regina, Saskatchewan
S4S 0B3

Attorney General for the
Province of Manitoba
104 Legislative Buildings
Winnipeg, Manitoba
R3C 0V8

Attorney General for the
Province of Ontario
18 King Street East
Toronto, Ontario
M5C 1C5

and

Mr. John M. Johnson
Director
Legal Services
Ministry of Energy
56 Wellesley Street West
12th Floor
Toronto, Ontario
M7A 2B7

Procureur général de la
Province de Québec
Edifice Delta
1200 route de l'église
Ste-Foy, Québec
G1R 4X7

and

Me Jean Giroux, avocat,
Service juridique du Ministère
de l'énergie et des ressources
200B, chemin Ste-Foy
Québec, Québec
G1R 4X7

Office of the Commissioner
P.O. Box 2703
Whitehorse, Yukon
Y1A 2C6

Mr. J.H. Parker
Commissioner
Northwest Territories
Yellowknife, N.W.T.
X1A 2L9

Federal Energy Regulatory
Commission
941 North Capitol Street N.E.
Room 3004
Washington, D.C.
U.S.A. 20426

APPENDIX III

ORDER NO. RH-3-84

RULES AND PROCEDURES

1. In these Rules, "party" means Foothills Pipe Lines (Yukon) Ltd. and any person who has filed with the Secretary of the Board a written submission pursuant to paragraph 8 of Order No. RH-3-84.
2. At the hearing, the evidence shall be heard in the following order:
 1. Operating and Maintenance Expenses
 - (a) 1983 Operating and Maintenance Expense Variances,
 - (b) 1984 Operating and Maintenance Budget.
 2. Rate Base Phase I
 - (a) Construction Costs incurred during 1982 and 1983,
 - (b) Additions to Rate Base,
 - (c) Incentive Rate of Return, Final establishment of One-Time Adjustment.
 3. Rate Base Phase II
 - (a) Preliminary Expenditures incurred in 1982 and 1983.
 - (b) Proposed Payments to Yukon Territorial Government.
 4. Operating Phase rate of return.
 5. Other Matters.
3. The Board shall hear all of the evidence on each of the items referred to in paragraph 2 of these Rules, item by item, and for that purpose the Board shall first hear all of the evidence of the Applicant in respect of one item and then shall hear the evidence of each of the intervenors in respect of the same item.

4. Upon the completion of the evidence on all items referred to in paragraph 2 of these Rules, the Board shall hear the oral argument of all parties.
5. Any party who wishes to obtain additional information from another party in respect of matters raised in filings made with the Board, may request in writing that such information be provided. Thirty-five (35) copies of the request shall be filed with the Secretary of the Board and one (1) copy served on all other parties. The party to whom the request is made shall, as soon as possible, either provide a written response to the request or refer the question to the Board under paragraph 7 hereof. Wherever possible, in order to expedite the hearing, such requests and responses should be made before the commencement of the hearing, and copies shall be filed as exhibits at the hearing.
6. Any party receiving an information request from the Board shall respond as soon as possible by filing with the Secretary of the Board thirty-five (35) copies of the response, and shall serve one (1) copy of the response on each party to the hearing. The information request and the response shall be filed as exhibits at the hearing.
7. If any question arises upon which a decision of the Board may be required, thirty-five (35) copies of a notice of motion with respect thereto shall be filed with the Secretary of the Board, and one (1) copy shall be served on each party to the hearing and the motion shall be disposed of in accordance with such procedures as the Board may direct.
8. The order of appearances of parties and sequence of adducing evidence and conducting cross-examination will be announced by the Board on or before the opening of the hearing.

APPENDIX III

ORDER NO. AO-1-RH-3-84

IN THE MATTER OF the National Energy Board
Act and the Northern Pipeline Act
and the regulations made thereunder, and

IN THE MATTER OF a public hearing respecting the tariffs and tolls to be charged by Foothills Pipe Lines (Yukon) Ltd. (hereinafter referred to as Foothills), and other related matters pursuant to Part IV of the National Energy Board Act and Part II of the Northern Pipeline Act.

BEFORE the Board on
Wednesday the 25th day of April 1984.

WHEREAS the Board by Order No. RH-3-84 advised that it would hold a public hearing for the purpose of considering certain matters relating to the tariff of and tolls charged by Foothills;

AND WHEREAS Order RH-3-84 set out certain dates for the filing of evidence by Foothills and parties of record;

AND WHEREAS Foothills by letter dated the 17th day of April 1984 requested leave of the Board

to file additional portions of the Application and direct evidence relating to the Operating Phase Rate of Return on the 3rd day of May instead of on the 19th day of April 1984, as required by Order No. RH-3-84;

AND WHEREAS the Board is prepared to grant the request for a new filing date:

IT IS ORDERED THAT:

1. The date for the filing by Foothills of evidence on the appropriateness of the operating phase rate of return as required by paragraphs 5(c) and 12(a) of Order No. RH-3-84 shall be the 3rd day of May 1984 instead of the 19th day of April as required by Order No. RH-3-84.
2. The date for the filing by intervenors of written direct evidence on the issue of the operating phase rate of return shall be the 21st day of May instead of the 10th day of May 1984 as required by paragraph 13 of Order No. RH-3-84. Written evidence on all other topics shall, unless otherwise authorized by the Board, be filed by the 10th day of May 1984.

NATIONAL ENERGY BOARD
G. Yorke Slader
Secretary

APPENDIX IV

ORDER NO. AO-8-TG-6-81

IN THE MATTER OF the National Energy Board Act and the Regulations made thereunder, and the Northern Pipeline Act; and

IN THE MATTER OF a submission by Foothills Pipe Lines (Yukon) Ltd., hereinafter referred to as Foothills (Yukon), dated 30 November 1983, respecting the 1984 Operating and Maintenance Expense Budgets for Foothills Pipe Lines (Alta.) Ltd., hereinafter referred to as Foothills (Alta.), Zones 6 and 7, Foothills Pipe Lines (South B.C.) Ltd., hereinafter referred to as Foothills (South B.C.), Zone 8 and Foothills Pipe Lines (Sask.) Ltd., hereinafter referred to as Foothills (Sask.), Zone 9, pursuant to Board Order No. TG-6-81, Item 2(a); and

IN THE MATTER OF an application by Foothills (Yukon), dated 29 February 1984 respecting the deferred Operating and Maintenance Expenses resulting from Operations during 1983 for Foothills (Yukon) and its subsidiaries pursuant to Board Order No. TG-6-81, item 2(b).

BEFORE the Board on
Friday, the 14th day of September, 1984.

UPON the Board having by Order No. TG-4-82, as amended, prescribed the tolls Foothills (Yukon) may charge in respect of natural gas transmitted by it through its pipeline in each month of the term of the said Order;

AND UPON the Board having by Order No. TG-6-81, as amended, prescribed that Foothills (Yukon) shall not include in the tolls to be charged in any year any amounts on account of Operating and Maintenance Costs which are in excess of the budgets approved

by the Board for that year until the Board otherwise directs;

AND UPON Foothills (Yukon) having, by a submission dated the 30th day of November 1983, as amended on 19 April 1984, and 3 May 1984, made pursuant to paragraph 2(a) of Order No. TG-6-81, submitted its forecast of Operating and Maintenance Expenses for the twelve-month period ending on the 31st day of December 1984;

AND UPON an application by Foothills (Yukon) dated the 29th day of February 1984, pursuant to Board Order No. TG-6-81, item 2(b), for an order approving and providing for the disposition of certain deferred Operating and Maintenance Expenses in the amount of \$1,037,290 for Foothills (Alta.), Zone 6; \$366,254 for Zone 7; \$920,005 for Foothills (South B.C.), Zone 8; and \$(389,731) for Foothills (Sask.), Zone 9 resulting from Operations during 1983 for Foothills (Yukon) and its subsidiaries;

AND UPON the Board issuing Order No. RH-3-84, dated the 15th day of March 1984, setting the application down for a public hearing, together with various matters specified in the Order related to the tariffs and tolls to be charged by Foothills (Yukon) in respect of the transmission of natural gas through the prebuild facilities in Zones 6 to 9;

AND UPON a public hearing being held in the City of Ottawa, in the Province of Ontario, commencing on the 29th day of May 1984, at which the Board heard evidence and submissions of Foothills (Yukon) and other interested parties;

AND UPON the Board, having considered the evidence and submissions, being satisfied that the tolls to be charged by Foothills (Yukon) and its subsidiaries in accordance with this Order are just and reasonable;

AND UPON the Board having, by Order No. AO-7-TG-6-81 approved an interim budget for Operating and Maintenance Expenses for Foothills (Alta) in Zone 6 of \$8,615,700; for Foothills (Alta) in Zone 7 of \$1,863,700; for Foothills (South B.C.) in Zone 8 of \$3,604,100; and for Foothills (Sask.) in

Zone 9 of \$6,088,200; these amounts being seventy-five percent of the amounts included in the submissions dated the 30th day of November 1983, as amended 3 May 1984;

IT IS ORDERED THAT:

(1) The approved budgets for Operating and Maintenance Expenses for Foothills (Alta) in Zones 6 and 7 respectively, shall be \$11,279,200 and \$2,276,500; for Foothills (South B.C.) in Zone 8 shall be \$4,597,100; and for Foothills (Sask.) in Zone 9 shall be \$7,909,200.

(2) (a) Foothills is authorized to recover in its cost of service for the month of October 1984 deferred Operating and Maintenance Expenses relating to 1983 Operations of \$877,740 for Zone 6, \$248,811 for Zone 7, and \$789,581 for Zone 8 plus carrying charges, calculated monthly at the rates specified in paragraph 11 of Board Order No. TG-4-82 as amended.

(b) Foothills shall reduce its cost of service for the month of October 1984 for Zone 9 to reflect an approved underrun of \$530,529 in respect of Operating and Maintenance Expenses relating to 1983 Operations plus carrying charges, calculated monthly at the rates specified in paragraph 11 of Board Order No. TG-4-82 as amended.

(3) Foothills shall separately identify in the report filed with the Board for the quarter ending 31 December 1984, pursuant to paragraph 6 of TG-6-81, the amount of the adjustments to its cost of service made pursuant to paragraph 2 of this Order.

NATIONAL ENERGY BOARD

G. Yorke Slader
Secretary

APPENDIX V

Order No. AO-5-TG-4-82

IN THE MATTER OF the National Energy Board Act and the Regulations made thereunder, and the Northern Pipeline Act; and

IN THE MATTER OF the Tariff and Tolls to be charged by Foothills Pipe Lines (Yukon) Ltd. (hereinafter referred to as Foothills (Yukon)), and its subsidiaries, Foothills Pipe Lines (Alta.) Ltd., Foothills Pipe Lines (South B.C.) Ltd., and Foothills Pipe Lines (Sask.) Ltd. (hereinafter referred to as its subsidiaries) in the operation of its prebuild facilities in Zones 6 to 9, and other related matters under Board File No. 1562-F6-4.

BEFORE the Board on
Friday, the 14th day of September, 1984.

WHEREAS the Board having, by Order No. TG-4-82, as amended, and Order No. TG-6-81, as amended, prescribed the tolls Foothills (Yukon) and its subsidiaries may charge in respect of natural gas transmitted by them in each month through their prebuild facilities in Zones 6 to 9;

AND WHEREAS the Board issued Order No. RH-3-84 dated 15 March 1984, declaring its intention to hold a public hearing with respect to the tolls and tariffs to be charged by Foothills (Yukon) and its subsidiaries and other related matters as specified in Board Order No. RH-3-84;

AND WHEREAS Foothills (Yukon) filed an application dated 19 April 1984 for certain orders respecting its tolls for the prebuild facilities in Zones 6 to 9;

AND WHEREAS Foothills (Yukon) filed a supplemental application, dated 3 May 1984, respecting its tolls for the prebuild facilities in Zones 6 to 9;

AND WHEREAS the Board has, following a public hearing held pursuant to Order No. RH-3-84, dated the 15th day of March 1984, at which all interested parties were heard, made certain determinations re-

specting the tariff and tolls to be charged by Foothills (Yukon) in the operation of the prebuild facilities, and other related matters;

AND WHEREAS the Board, having considered the evidence and submissions, is satisfied that the tolls to be charged by Foothills (Yukon) in accordance with this Order are just and reasonable;

IT IS ORDERED THAT:

Order No. TG-4-82 be and the same is hereby changed, altered and varied:

1. By adding to paragraph 1 thereof the following:
" (e) the Board's Reasons for Decision dated October 1984, resulting from the public hearing held under Order No. RH-3-84."
2. By adding thereto immediately after paragraph 3 thereof the following:
"3.1 Foothills (Yukon) shall recalculate, effective 1 November 1984, in accordance with this Order and the Reasons for Decision dated October 1984, referred to in paragraph 1, and file for the approval of the Board:
 - (a) a revision to the final design cost estimates for prebuild facilities in Zones 6 and 9 incorporating the adjustments as approved;
 - (b) the one-time adjustment to rate base of Foothills (Alta.) for Zones 6 and 7, Foothills (South B.C.) for Zone 8 and Foothills (Sask.) for Zone 9, following the procedures set out in Order No. TG-5-81, as amended by Order No. AO-1-TG-5-81, incorporating the revised estimates in subparagraph (a) and the adjustments to construction costs as approved;
 - (c) the additions to rate base for Zones 6 to 9 including related Allowance for Funds Used During Construction as approved for 1982 and 1983;
 - (d) the rate bases for Zones 6 to 9 calculated as of 1 November 1984 incorporating the recalculated adjustments described in subparagraphs (a), (b) and (c);
 - (e) Phase II Preliminary Expenditures including Allowance for Funds Used During Construction for 1982 and 1983 as approved;

(f) the revised Cost of Service for the billing months January 1982 through October 1984 for Zones 6 to 9 incorporating the recalculated amounts required by this paragraph and the billing adjustments required to 31 October 1984;

3.2 Pending final Board approval of the calculations required to be filed with the Board pursuant to paragraph 3.1 Foothills (Yukon) shall use said recalculated amounts in calculating the monthly Cost of Service for Zones 6 to 9 on an interim basis commencing 1 November 1984."

3. By deleting from paragraph 16 thereof reference to "1 September 1982" and substituting therefor "31 October 1984".

4. By adding thereto the following:

"19. Foothills may include in the Phase II Rate Base amounts up to \$350,000 for each of the years 1980 and 1981 when paid to the Yukon Territorial Government in respect of maintenance of the Office of the Pipeline Coordinator."

NATIONAL ENERGY BOARD

G. Yorke Slader
Secretary

